

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

LISA K. COOPER,

Plaintiff,

v.

COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

Case No. 06-13239

Hon. Gerald E. Rosen

Magistrate Judge R. Steven Whalen

**OPINION AND ORDER ADOPTING
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

At a session of said Court, held in
the U.S. Courthouse, Detroit, Michigan
on September 28, 2007

PRESENT: Honorable Gerald E. Rosen
United States District Judge

On August 13, 2007, Magistrate Judge R. Steven Whalen issued a Report and Recommendation ("R & R") recommending that the Court deny Plaintiff Lisa K. Cooper's motion for summary judgment and grant the Defendant Commissioner of Social Security's motion for summary judgment. Plaintiff has filed objections to the R & R. Having reviewed the parties' cross-motions, the R & R, Plaintiff's objections, and the other materials in the record, the Court agrees with the thorough analysis of the Magistrate Judge, and adopts the R & R in its entirety.

Although Plaintiff's submission in response to the R & R, like her underlying

summary judgment motion, does not clearly and separately identify the issues she seeks to raise, she appears to advance two objections to the Magistrate Judge’s analysis. First, she again contends, as she did in her summary judgment motion, that the Administrative Law Judge (“ALJ”) failed to identify a sufficient basis for discounting her migraine headaches as a limitation upon her ability to work. Yet, Plaintiff’s challenge on this point rests upon only *some* of the considerations cited in the R & R as supporting the ALJ’s determination, and even these considerations are treated in isolation. Viewing the medical record, the evidence of Plaintiff’s daily activities,¹ and the remainder of the record as a whole, as the Magistrate Judge properly did, (see R & R at 19-21), the Court readily concurs in the conclusion in the R & R that the ALJ’s treatment of Plaintiff’s migraine headaches as a “non-severe” impairment “is amply supported by record evidence,” (id. at 19).

Plaintiff next asserts, as she did in her underlying motion, that the ALJ did not sufficiently account for the side effects of her medications. Again, however, she focuses only on *one* of the considerations cited in the R & R — evidence in the medical record that, at one point in the past, she had denied suffering from any side effects — without addressing the Magistrate Judge’s *further* point that Plaintiff’s testimony regarding side

¹Although Plaintiff downplays the significance of her pursuit of a degree in paralegal studies as merely a part-time commitment, the Magistrate Judge pointed to her testimony that she drove a substantial distance two to three times a week to pursue these studies, and that she was doing well in her courses. Plainly, then, these studies imposed regular demands on her schedule, even if not every day of the week, and thus could be viewed as inconsistent with Plaintiff’s testimony that she suffered severe and debilitating migraine headaches once or twice a week.

effects was somewhat at odds with the evidence of her daily activities. (See R & R at 23.) Moreover, the ALJ did not altogether discount Plaintiff's testimony on this score, but instead found that she was restricted to performing only "simple, unskilled work which does not require intense concentration or production quotas." (Admin. Record at 24.) The Court agrees with the Magistrate Judge that this determination is supported by substantial evidence.²

Accordingly,

NOW, THEREFORE, IT IS HEREBY ORDERED that the Magistrate Judge's August 13, 2007 report and recommendation, as supplemented by the rulings in this opinion and order, is ADOPTED as the opinion of this Court. IT IS FURTHER ORDERED, for the reasons stated in the R & R and set forth above, that Plaintiff's motion for summary judgment is DENIED, and that Defendant's motion for summary judgment is GRANTED.

Dated: September 28, 2007

s/Gerald E. Rosen
Gerald E. Rosen
United States District Judge

²To the extent that Plaintiff separately objects that the Magistrate Judge improperly held her to an elevated burden of establishing her "total disability," (see R & R at 23), the Court reads this passage of the R & R as a characterization of Plaintiff's testimony, as opposed to a statement of the standard Plaintiff must meet under the applicable law. Upon reviewing the R & R in its totality, the Court is confident that the Magistrate Judge applied the correct legal standards in resolving the parties' cross-motions.

I hereby certify that a copy of the foregoing document was served upon counsel of record on September 28, 2007, by electronic and/or ordinary mail.

s/LaShawn R. Saulsberry

Case Manager